

Judgment of the Court (Fourth Chamber) of 20 May 2010
(reference for a preliminary ruling from the Tribunale
ordinario di Palermo (Italy)) — Todaro Nunziatina & C.
Snc v Assessorato del Lavoro, della Previdenza Sociale,
della Formazione Professionale e dell'Emigrazione della
regione Sicilia

(Case C-138/09) ⁽¹⁾

(Reference for a preliminary ruling — State aid — Commission decisions — Interpretation — Aid granted by the Region of Sicily to undertakings entering into training and work-experience contracts or converting such contracts into open-ended contracts — Time-limit for the grant of aid — Budgetary limits — Default interest — Inadmissibility)

(2010/C 179/18)

Language of the case: Italian

Referring court

Tribunale ordinario di Palermo

Parties to the main proceedings

Applicant: Todaro Nunziatina & C. Snc

Defendant: Assessorato del Lavoro, della Previdenza Sociale, della Formazione Professionale e dell'Emigrazione della regione Sicilia

Re:

Reference for a preliminary ruling — Tribunale ordinario di Palermo — State aid — Scope of Commission Decisions SG (95) D/15975 of 21 December 1995 relating to Regional Law No 27 of the Region of Sicily of 15 May 1991 providing for measures to promote employment and 2003/195/EC of 16 October 2002 (OJ 2003 L 77, p. 57) on the aid granted by Sicily to companies entering into training and work experience contracts or converting training and work experience contracts into open-ended contracts

Operative part of the judgment

1. Commission Decision SG (95) D/15975 of 11 December 1995 relating to Regional Law No 27 of the Region of Sicily of 15 May 1991 providing for measures to promote employment (State aid NN 91/A/95) must be interpreted as having accepted, as being compatible with the common market, an aid scheme composed of two measures provided for in Article 10(1)(a) and (b) of abovementioned Regional Law No 27, which cannot be cumulative and the event giving rise to which, that is to say, the recruitment of a worker or the conversion of the contract into an open-ended contract, must have taken place before 31 December 1996, but the payments to which they give rise may be made after that date, on condition that the applicable national budgetary and

financial rules do not preclude that and that the budgetary provision approved by the Commission of the European Communities is not exceeded;

2. Article 1 of Commission Decision 2003/195/EC of 16 October 2002 on the scheme by which Italy plans to aid employment in the Region of Sicily — C 56/99 (ex N 668/97) must be interpreted as meaning that the aid scheme provided for in Article 11(1) of Regional Law No 16 of the Region of Sicily of 27 May 1997 authorising expenditure for the use of the provisions entered in the general funds of the budget of the Region for the financial year 1997 constitutes new aid distinct from that provided for in Article 10 of Regional Law No 27 of the Region of Sicily of 15 May 1991 providing for measures to promote employment. Article 1 of Decision 2003/195 precludes the grant of subsidies in respect of any employment of workers recruited under training or work-experience contracts or conversion of training and work-experience contracts into open-ended contracts with effect from 1 January 1997;
3. It is for the Member State concerned to determine which party to the proceedings has the burden of proving that the budgetary provision allocated for the aid measures referred to in Article 10(1)(a) and (b) of Regional Law No 27 of the Region of Sicily of 15 May 1991 providing for measures to aid employment and authorised by Decision SG (95) D/15975 has not been exhausted;
4. The amount of statutory interest which may be due in the event of late payment of the aid authorised by Decision SG (95) D/15975 for the period following that decision is not to be included in the amount of the budgetary provision authorised by that decision. The rate of interest and the detailed arrangements for applying that rate fall within the scope of national law.

⁽¹⁾ OJ C 153, 4.7.2009.

Judgment of the Court (Fifth Chamber) of 20 May 2010 —
European Commission v Kingdom of Spain

(Case C-158/09) ⁽¹⁾

(Failure of a Member State to fulfil obligations — Directive 2003/88/EC — Organisation of working time — Non-civilian personnel in public authorities — Failure to transpose within the prescribed period)

(2010/C 179/19)

Language of the case: Spanish

Parties

Applicant: European Commission (represented by: I. Martinez del Peral Cagigal and M. van Beek, acting as Agents)